



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES

Release Number: 201403020

Release Date: 1/17/2014

Date: October 25, 2013

UIL Code: 501.04-00

501.04-03

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear :

This is our final determination that you do not qualify for exemption from federal income tax as an organization described in Internal Revenue Code § 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law, and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code § 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Karen Schiller
Acting Director, Exempt Organizations
Rulings and Agreements



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: August 29, 2013

UIL 501.04-00, 501.04-03

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND

Date = *****
State = *****
Description1 = *****
X = *****
Description2 = *****

Dear :

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code § 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under § 501(c)(4). The basis for our conclusion is set forth below.

FACTS

You incorporated on Date, in State as a nonprofit membership corporation. Your Articles of Incorporation state that you are organized, in part, "[t]o be a liaison between the [Description1] Community of [State] and the [X] Party of [State]." You state that your "first and foremost focus as an organization is to promote participation in the [X] Party." You state that you spend 60% of your time and resources on activities to further this purpose.

According to § 3.01 of your Bylaws, your objectives are as follows:

- (a) To develop a statewide, intelligent, aggressive and serviceable [X] organization;
- (b) To provide through this organization a practical program for the betterment of the [X] Party of [State] and of the various political subdivisions thereof; and
- (c) To establish chapters who will improve the public relations of the [X] Party of [State], in supporting state [X] political campaigns, encouraging public forums and social programs,

and in attracting a greater number of voters to work to advance the interests of the [X] Party of [State] and [the] state.

Section 2.01(b) of your Bylaws provides that one of your powers is to create and charter chapters of you and supervise and coordinate them. You have chapters across the state that hold forums, debates, community service projects, and mixers. Through your chapters, you encourage citizens of State and the United States to become involved in the X Party as precinct chairs, volunteers, grassroots workers, and media surrogates.

According to § 4.04 of your Bylaws, your eligible members must be American citizens of good moral character who are registered to vote as members of the X Party, and residents of State.

Section 6.08(a) of your Bylaws provides that membership may be terminated whenever your Board has determined that a member has:

- (1) Publicly supported or registered as a member of a political party other than the [X] Party;
- (2) Us[ed] his name and title as a member of [you] in publicly advocating that the electorate should not vote for the [X] nominee for any elected political office;
- (3) Us[ed] his name and title as a member of [you] in giving support or avowing a preference for a candidate of another party for election to an elected public office if that candidate is opposed by a [X] candidate;
- (4) Us[ed] his name and title as a member of [you] in endorsing candidates running for any public officer, whether partisan or non-partisan, or for office in the [State] [X] Party without a vote of the delegates at a local endorsing committee in accordance with Article XXI;
- (5) Claim[ed] to represent any of [your] chapters that has not been duly chartered by the Board of Directors; or
- (6) Otherwise bring[s] discredit or disrepute upon [you], provided that at least thirty days before such action, notice of intended action shall have been duly sent by certified mail by the Membership Secretary to the member in question.

Article XXI of your Bylaws provides procedures for the "Endorsement of State Candidates & Recall of State Elected Officials." These procedures allow your chapters to conduct state endorsing conventions. Section 21.04(a) provides that neither you nor any of your chartered chapters can endorse any candidate for any public office, whether partisan or non-partisan, unless the candidate is a duly-registered member of the X Party.

You state your second focus is to work within the X Party and promote the active pursuit of the Description1 or Description2 voting demographic. You visit executive committee meetings, meet with party volunteers, officials, and precinct chairs to explain "the need to focus party resources on the Description1 vote." You state that "[i]t is imperative that [you] increase the participation of this demographic in civic life." You state that you spend 30% of your time and resources on this activity.

You state your last focus is to visit with X political leaders to express your desire for certain key legislation that you believe will affect your goal and effectiveness. You state you spend 10% of your time and resources on this activity.

You receive financial support from dues, member donations, and sponsorships.

LAW

Section 501(a) exempts from federal income tax organizations described in § 501(c)(4).

Section 501(c)(4)(A) describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(4)-1(a)(1) states that an organization may be exempt as an organization described in § 501(c)(4) if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare.

Treas. Reg. § 1.501(c)(4)-1(a)(2)(i) provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii) provides that the promotion of social welfare does not include direct or indirect participation in political campaigns on behalf of or in opposition to any candidate for public office.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under § 501(c)(4). Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in § 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under § 501(c)(4).

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under § 501(c)(4). Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents

of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area the organization improved was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under § 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under § 501(c)(4).

Rev. Rul. 80-107, 1980-1 C.B. 117, provides that an organization formed to promote the interests of the public utility industry and its shareholders in rate and regulatory matters before administrative agencies and legislative bodies does not qualify for exemption under § 501(c)(4). The ruling holds that because the primary beneficiaries of the organization's activities were its members, "together with other individuals who own shares in the public utility companies," it was primarily operated to serve private interests rather than the community as whole.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under § 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of § 501(c)(4), "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in § 501(c)(4) because it was "a public-spirited but privately-devoted endeavor" that provided

only incidental benefit to the community. *Id.* at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Ass'n of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted, "[t]here is not in such an organization the requisite civic concern to constitute 'social welfare'" required for qualification under § 501(c)(4). *Id.* at 1333. Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") that trained individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The court agreed, holding the organization did not operate exclusively for exempt, educational purposes under § 501(c)(3) because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit

was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under § 501(c)(3).

ANALYSIS

Based on our analysis of the information you submitted with your application, we have determined that you are not operated exclusively for the promotion of social welfare within the meaning of § 501(c)(4) because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in § 501(c)(4).

Private Benefit to the X Party

An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. § 1.501(c)(4)-1(a)(2). An organization recognized under § 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under § 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Lake Forest, Inc., 305 F.2d at 818; Contracting Plumbers Coop. Restoration Corp., 488 F.2d at 687; New York State Ass'n of Real Estate Bds. Group Ins. Fund, 54 T.C. at 1333; Rev. Rul. 80-107, supra; Rev. Rul. 75-286, supra. A § 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, 316 F.2d at 156. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under § 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, 488 F.2d at 687.

In American Campaign Academy, the court denied exemption under § 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. 92 T.C. at 1078. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial nonexempt purpose that precluded exemption. While you are an organization described in § 501(c)(4) and not § 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. As such, for purposes of both § 501(c)(3) and § 501(c)(4), an organization which conducts its activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under § 501(c)(4).

You are not primarily engaged in promoting the common good and general welfare of the

people of the community. You fail to qualify for exemption because your program and activities primarily benefits the interests of the X Party. You are engaged primarily in promoting participation in the X Party, endorsing X candidates, and promoting the active pursuit of the Description1 or Description2 voting demographic by the X Party. You have stated that 90% of your time and resources are devoted to these activities.

Because you conduct your activities with the objective of benefiting the interests of the X Party you are similar to the organization described in American Campaign Academy. Your "first and foremost focus as an organization is to promote participation in the [X] Party." You stated that you will "develop a statewide, intelligent, aggressive and serviceable X organization" and that you will provide a "practical program for the betterment of the [X] Party of [State]." Your chapters will work "to improve the public relations of the [X] Party of [State], in supporting [X] political campaigns, encouraging public forums and social programs, and in attracting a greater number of voters to work to advance the interests of the [X] Party of [State] and the state." Your only members are registered [X] voters. Membership in your organization can be terminated for advocating against [X] nominees for any elected political office and/or if a member uses his or her name and title as a member of you in giving support or endorsing a candidate of another if that candidate is opposed by an X candidate.

You also will use your time and resources to work within the X Party to promote the active pursuit of the Description1 or Description2 voting demographic to increase the participation of this demographic in civic life. You state that you will do this through visiting executive committee meetings, meeting with party volunteers, officials, and precinct chairs in order "to focus party resources on the [Description1] vote." Such activity does not promote the common good and general welfare of the community; rather, it benefits private interests, in particular the X Party. See § 1.501(c)(4)-1(a)(2).

Candidate Endorsements

You will endorse X Party candidates in state elections and recalls of state officials. Your Bylaws provide that you will only endorse candidates for public office that are duly-registered as members of the X Party. Section 1.501(c)(4)-1(a)(2)(ii) provides that the promotion of social welfare does not include direct or indirect participation in political campaigns on behalf of or in opposition to any candidate for public office. Therefore, these activities do not promote social welfare within the meaning of § 501(c)(4).

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of private interests, rather than the community as a whole, or as participation in political campaigns. Accordingly, you do not qualify for exemption as an organization described in § 501(c)(4) and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the

statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to this address:

Internal Revenue Service

1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Karen Schiller
Acting Director,
EO Rulings and Agreements